

REMARKS

This document is submitted in response to the Office Action dated October 23, 2006 (“Office Action”).

Applicants have withdrawn claims 1-10 and cancelled claim 11. In addition, Applicants have added new claims 12-15, support for which can be found throughout the application.

Upon entry of the amendments, claims 12-15 will be under examination. Applicants respectfully request that the Examiner reconsider this application in view of the following remarks.

Priority Claim

The present application claims priority from International Patent Application PCT/CA03/00422, which in turn claims priority from US Patent Application No. 60/307,883 filed March 24, 2002. The Examiner asserts that these two prior applications fail to provide adequate support or enablement for the assay system of claim 11 and this claim is therefore not entitled to the very early filing date March 24, 2002.

Applicants have cancelled claim 11, mooting the above ground for rejecting the priority claim.

Applicants have added new claims 12-15. Support for new claim 12 can be found, for example, in US Patent Application 60/307,883, at pages 5 and 6, and in figures presented in both of the prior applications. Support for new claims 13-15, all dependent from claim 12, can be found throughout the prior applications. It is submitted that new claims 12-15 are entitled to the filing date of US Patent Application No. 60/307,883, i.e., March 24, 2002.

Rejection under 35 U.S.C. § 103

Claim 11 stands rejected as being obvious over Guire et al., US Patent 4,826,759 (“Guire”) in view of Reinke et al (“Reinke”). Applicants have cancelled claim 11 and request that this rejection be withdrawn.

For the reasons set forth below, Applicants submit that new claims 12-15 are not rendered obvious by Guire and Reinke.

Independent claim 12 is discussed first. This claim covers an immunoassay device for detecting thromboxane B2. This device includes two elements: (1) a first strip containing a plurality of standard patches and a test patch; and (2) a second strip containing an absorbent material. Each of the standard patches contains a predetermined amount of labeled anti-thromboxane B2 antibodies, the signal released from which indicates an amount range of thromboxane B2. See pages 20-21, paragraph [0060]. Antibodies contained in the test patch can react with a sample containing thromboxane B2. By comparing the strength of the signal yielded from the test patch with that yielded from each of the standard patch, an approximate quantity of thromboxane B2 contained in the test sample can be determined. See pages 21-23, paragraph [0062].

Guire discloses an apparatus for determining the presence of an analyte. This apparatus include two support members, each including a bibulous element such as disks of filter paper. The first bibulous element (on the first support member) contains a system that allows it to absorb a liquid sample containing the analyte. The second bibulous element (on the second support member) contains a system capable of detecting the analyte. When the two support members contact each other, a signal may be generated based on the presence or absence of the analyte in the sample.

As mentioned above, the device of claim 12 includes a group of standard patches for quantifying thromboxane B2 contained in the test sample. Differently, the apparatus disclosed in Guire does not contain standard patches. Instead, "in addition to the analyte contained in a liquid sample, is a labeled pair member chosen to bind to the first reaction zone in relation to the quantity of analyte in the liquid sample which binds thereto, the labeling being part of signal-producing system." See column 2, lines 9-14. In other words, the Guire apparatus includes a labeled pair member for quantifying the tested analyte, which is very different from the standard patches in the device of claim 12.

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According to the Examiner, Reinke discloses "thromboxane B2-BSA conjugates, monoclonal antibodies specific to thromboxane B2 and three different types of enzymes detection system." See the Office Action, page 5, third paragraph. This reference does not teach or suggest using standard patches for quantifying an analyte, as required by claim 12.

In view of the above remarks, Applicants submit that Guire and Reinke, either alone or in combination, would not have rendered claim 12 obvious, as neither one suggests a feature of the claimed device, i.e., including the standard patches for quantifying an analyte. Nor do they render obvious claims 13-15, all of which depend from claim 12.

It is respectfully requested that this rejection be withdrawn.

CONCLUSION

In view of the above remarks, Applicants submit that new claims 12-15 are in condition for allowance.

Enclosed is a \$225 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, referencing attorney docket number 16554-020002.

Respectfully submitted,

Date: 3-23-07

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